

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JUAN CORTEZ.

Plaintiff,

WASHINGTON ADMINISTRATIVE
SERVICES DIVISION, et al.,

Defendant.

CASE NO. 11-5681 RJB JRC

ORDER ADOPTING REPORT AND RECOMMENDATION

This matter comes before the Court on the Report and Recommendation of U.S.

Magistrate Judge J. Richard Creatura (Dkt. 28) and Plaintiff's motion for rule 11 sanctions (filed in his Objections to the Report and Recommendation (Dkt. 29)). The Court has considered the Report and Recommendation, objections, motion, and the remaining file. The Court is fully advised.

The Report and Recommendation recommends dismissal of the case without prejudice in accord with Plaintiff's motion (Dkt. 21) and Defendant's non-opposition to that motion (Dkt. 24). Dkt. 28.

1 Plaintiff filed objections. Dkt. 29. Although less than clear, it appears that Plaintiff
2 moves for Rule 11 sanctions against Defendant in the amount of \$9,900 for “the repeated transfer
3 without cause, which induced prejudice to the prosecution of the case, and by guile removed
4 access to law library resources.” *Id.* He further states that:

5 A reasonable trier of fact should so find that relief would best serve the interest of
6 justice and find in favor of the Plaintiff’s motion for FRCP 11 sanctions of
7 \$9,900.00 USD, immediately; with dismissal of the action in Dkt. 21. Thereby,
8 satisfactorily concluding the case and the indirect results which are contrary to the
rule of law, but for the declaration of independence.

8 Dkt. 29, at 4.

9 This opinion will first consider Plaintiff’s motion for rule 11 sanctions first and then the
10 Report and Recommendation.

11 **A. MOTION FOR RULE 11 SANCTIONS**

12 Pursuant to Fed. R. Civ. P. 11 (b):

13 Representations to the Court. By presenting to the court a pleading, written
14 motion, or other paper--whether by signing, filing, submitting, or later advocating
15 it--an attorney or unrepresented party certifies that to the best of the person's
knowledge, information, and belief, formed after an inquiry reasonable under the
circumstances:

- 16 (1) it is not being presented for any improper purpose, such as to harass, cause
unnecessary delay, or needlessly increase the cost of litigation;
- 17 (2) the claims, defenses, and other legal contentions are warranted by existing law
or by a nonfrivolous argument for extending, modifying, or reversing existing law
or for establishing new law;
- 18 (3) the factual contentions have evidentiary support or, if specifically so
identified, will likely have evidentiary support after a reasonable opportunity for
further investigation or discovery; and
- 19 (4) the denials of factual contentions are warranted on the evidence or, if
specifically so identified, are reasonably based on belief or a lack of information.

21 Under Fed. R. Civ. P. 11 (c) (2), “[a] motion for sanctions must be made separately from any
22 other motion and must describe the specific conduct that allegedly violates Rule 11 (b).”

1 Plaintiff's motion for Rule 11 sanctions (Dkt. 29) should be denied. He has failed to
2 describe the "specific conduct that allegedly violates Rule 11(b)." His allegations are unrelated
3 to conduct prescribed in Rule 11.

4 **B. REPORT AND RECOMMENDATION AND THE MOTION FOR
5 VOLUNTARY DISMISSAL WITHOUT PREJUDICE**

6 The Report and Recommendation (Dkt. 28) should be adopted and the matter dismissed
7 without prejudice in accord with the Plaintiff's motion (Dkt. 21) and the Defendant's not
8 objecting to the motion (Dkt. 24).

9 **ORDER**

10 • The Plaintiff's Motion for Rule 11 Sanctions (Dkt. 29) **IS DENIED**;
11 • The Report and Recommendation (Dkt. 28) **IS ADOPTED**; and
12 • **THIS MATTER IS DISMISSED WITHOUT PREJUDICE.**

13 The Clerk is directed to send uncertified copies of this Order to U.S. Magistrate Judge J.
14 Richard Creatura, all counsel of record, and to any party appearing *pro se* at said party's last
15 known address.

16 Dated this 26th day of January, 2012.

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19 ROBERT J. BRYAN
United States District Judge
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